

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISON**

DAWN HANEY)	JUDGE
35110 Bainbridge Road)	
North Ridgeville OH 44039)	
Plaintiff,)	COMPLAINT
		(Jury Demand Endorsed Hereon)
v.)	
)	
PANERA BREAD COMPANY and)	
PANERA LLC)	
26086 Brook Park Road)	
North Olmsted OH 44070)	
)	
And)	
)	
COVELLI ENTERPRISES, INC.)	
3900 East Market Street)	
Warren OH 44484)	
)	
Defendants.)	

JURISDICTION

1. Plaintiff brings this action against Panera Bread Company and Panera LLC and Covelli Enterprises, Inc., the operator of Panera Bread Retail Outlets in Ohio under the Fair Labor Standards Act (FLSA) and as a collective action for herself and other similarly situated under 29 U.S.C. §2001 and 2016(B) and under the Ohio Minimum Fair Wages Standards law (OMFWS) as a class action for herself and others similarly situated under Ohio Revised Code §4111.01 *et seq.* and the Ohio Constitution, Article II, 34A.

NAMED PARTIES

2. Plaintiff has been an employee of the Defendants since September 9, 2009 and since June 29, 2011 has been classified as an assistant manager at the Defendants' North Olmsted store.

3. The Defendants Panera Bread Company and Covelli Enterprises, Inc. are the owners, managers, franchisor and/or franchisee doing business in the state of Ohio as well as Michigan, Pennsylvania and West Virginia, corporately identified as the Great Lake region.
4. Defendants are employers subject to the overtime requirements of the FLSA and OMFWS.

FACTS

5. Plaintiff states she and others in the same position as her were misclassified as exempt employees and thus were not eligible for overtime.
6. In Plaintiff's position as assistant manager, she was forced to work a minimum of 45 hours per week but was not paid any overtime or regular wages for all hours worked over 40 hours in a work week as required by law.
7. Plaintiff and other similarly situated employees have not been paid time and one-half for overtime for all hours worked in excess of 40 hours per week during the three years prior to the filing of this complaint, or her regular wages for all hours after working 40 hours per week in violation of state and federal minimum wage and overtime laws.

COUNT ONE – OVERTIME VIOLATIONS

8. Plaintiff incorporates the allegations contained in the preceding paragraphs above as if fully rewritten.
9. Defendants' failure to pay the Plaintiff and all other similarly situated class members one and one-half times their regular rate of pay for hours worked in excess of 40 in each week constitutes a violation of 29 U.S.C. 2007 and Ohio Revised Code §4111.01 *et. seq.* and the Ohio Constitution, Article II, 34A.
10. Defendants' violations have been willful, thereby entitling the Plaintiff and similarly situated individuals to recover lost wages for the three years preceding the filing of this complaint.

COUNT TWO - COLLECTIVE ACTION ALLEGATIONS (FLSA)

11. Plaintiff files this action on behalf of herself and similarly situated co-workers pursuant to §216(B) of the FLSA. The class of potential plaintiffs encompassed by this collective action include all individuals working for the Defendants as assistant managers or in different job classifications but doing the same work and with the same responsibilities as assistant managers in the Great Lakes region for three years preceding the filing of this complaint.

12. The above described employees routinely performed work in excess of 40 hours per week for which they have not been paid time and one-half overtime pay.

13. The above described employees are similarly situated to the Plaintiff with respect to legal and factual issues raised in this action.

COUNT THREE - CLASS ACTION ALLEGATIONS

UNDER OMFWS AND CIVIL RULE 23

14. Plaintiff brings this action on behalf of herself and other persons similarly situated who are so numerous that joinder of all members is impractical.

15. There are common questions of law or fact common to all members of the class.

16. The claims or defenses of the representative party are typical to the claims or defenses of the class Plaintiff seeks to represent under the OMFWS.

17. The representative party will fairly and adequately protect the interests of the class.

18. Defendants are corporations organized and existing in the state of Ohio for the purposes of operating Panera Bread stores throughout the state.

19. At these stores, the Defendants have classified the Plaintiff and other similarly situated individuals as assistant managers with different job classifications but doing the same work with similar responsibilities as assistant managers and exempt from law for purposes of overtime pay.

20. In failing to pay the Plaintiff and others similarly situated overtime compensation Defendants were in violation of Ohio law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief from the Court:

1. The Court direct notice of this action be provided to all other similarly situated individuals to Plaintiff on the FLSA claim.
2. The Court certify a class of similarly situated employees for whom a class action under Ohio law.
3. The Court enter judgment on behalf of the Plaintiff and others similarly situated under the basis of Defendants' willful violation of the FLSA and OMFWS.
4. Award the Plaintiff and others similarly situated actual and liquidated damages in the amount shown to be due for unpaid overtime under both Ohio and Federal law with prejudgment and postjudgment interest as well as out of pocket expenses and other damages.
5. Award the Plaintiff reasonable attorney fees and costs of this action as provided by 29 U.S.C. §216.
6. Award the Plaintiff and others similarly situated such other and further relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Alan I. Goodman
ALAN I. GOODMAN (0012660)
LAWRENCE MAYS (0038288)
55 Public Square, Suite 1300
Cleveland, Ohio 44113
Telephone: 216-456-2486
Facsimile: 216-456-2487
agoodman@aiglaw.com
Attorneys for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury with the maximum number of jurors allowed by law as to the issues of this case.

/s/ Alan I. Goodman
ALAN I. GOODMAN